

Message Text

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ORIGIN L-03

INFO OCT-01 IO-14 ISO-00 SP-03 EB-11 NASA-04 OTPE-00

USIA-15 ACDA-19 CIAE-00 DODE-00 PM-07 INR-10 NSAE-00

NSC-07 RSC-01 SCI-06 AF-10 ARA-16 EA-11 EUR-25 NEA-14

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C O N F I D E N T I A L STATE 094810

FOR OUTER SPACE DELEGATION

E.O. 11652: GDS

TAGS: TSPA, PFOR, US

SUBJ: OUTER SPACE: D.B.S. POSITION PAPER

FOLLOWING IS CLEARED U.S. POSITION PAPER FOR LEGAL SUB-
COMMITTEE OF OUTER SPACE COMMITTEE SESSION MAY 6-MAY 31,
1974, ON AGENDA ITEM DIRECT BROADCASTING BY SATELLITE:

BACKGROUND:

IN 1972 AT ITS 27TH SESSION THE GENERAL ASSEMBLY PASSED
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RESOLUTION 2916 IN WHICH IT REQUESTED THE COMMITTEE ON THE

PEACEFUL USES OF OUTER SPACE TO UNDERTAKE THE ELABORATION OF PRINCIPLES GOVERNING DIRECT BROADCASTING BY SATELLITES AS SOON AS POSSIBLE. THAT COMMITTEE THEN REQUESTED THE LEGAL SUBCOMMITTEE TO ADDRESS WITH HIGH PRIORITY THE LEGAL IMPLICATIONS OF SUCH PRINCIPLES. AT ITS 1973 SESSION THE LEGAL SUBCOMMITTEE WAS UNABLE TO DEVOTE SIGNIFICANT TIME TO DISCUSSION OF DBS BECAUSE OF A FULL CALENDAR. THE OUTER SPACE COMMITTEE'S WORKING GROUP ON DBS AT ITS 5TH SESSION IN MARCH 1974 DEVOTED THE PRINCIPAL PORTION OF ITS TIME TO ANALYZING THE POLITICAL AND LEGAL CONSIDERATIONS RELEVANT TO DBS, INCLUDING EXTENSIVE AND DETAILED ANALYSIS OF VARIOUS DRAFT PRINCIPLES AND WORKING PAPERS PROPOSED BY CANADA AND SWEDEN, THE UNITED STATES, THE U.S.S.R. OR ARGENTINA (SEE A/AC.105/127). THIS EFFORT OF THE WORKING GROUP WAS INTENDED TO ASSIST THE WORK OF THE LEGAL SUBCOMMITTEE IN

THIS FIELD.

PROBLEM:

ALTHOUGH IT REMAINS UNCERTAIN HOW MUCH TIME THE LEGAL SUBCOMMITTEE WILL DECIDE TO DEVOTE TO DBS IN ITS 1974 SESSION, IT IS VERY LIKELY THAT STRONG PRESSURE WILL BE EXERTED BY A SIGNIFICANT MAJORITY OF THE SUBCOMMITTEE TO BEGIN NEGOTIATION OF ACTUAL TEXTS OF PRINCIPLES RELATING TO DBS DURING WHATEVER TIME IS AVAILABLE. DBS IS THE THIRD HIGHEST PRIORITY ITEM ON THE AGENDA. IN ADDITION, SOME DELEGATIONS PARTICULARLY INCLUDING CANADA AND SWEDEN, MAY PROPOSE ANOTHER MEETING OF THE WORKING GROUP IN EARLY 1975 TO FOCUS ON DEFINITIONAL ISSUES. TERMS OF IMPORTANCE TO THESE DELEGATIONS ARE QTE CONSENT, PARTICIPATION AND SPILL OVER. UNQTE TO ASSIST IN THE CONSIDERATION OF DEFINITIONS OF THESE TERMS, CANADA AND SWEDEN ARE EXPECTED TO PROPOSE THAT AN ANALYTICAL PAPER BE PREPARED BY THE ITU FOR USE OF THE WORKING GROUP IN A FUTURE MEETING. SUCH A RECOMMENDATION WILL BE PROPOSED TO BE INCLUDED IN THE REPORT OF THE OUTER SPACE COMMITTEE.

POSITION:

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THE USG WOULD PREFER TO REACH DBS AS LATE AS POSSIBLE DURING THE LSC SESSION BUT NOT AT THE EXPENSE OF MOVING REMOTE SENSING (AGENDA ITEM 4) AHEAD OF DBS.

THE DELEGATION IS AUTHORIZED TO ENGAGE IN NEGOTIATIONS CONCERNING THE FORMULATION OF PRINCIPLES RELATING TO DBS. THE POSITION OF THE DELEGATION SHOULD BE CONSISTENT WITH THE FOLLOWING GUIDELINES:

(A) THE U.S. STRONGLY FAVORS BEGINNING THE NEGOTIATION WITH THE PRINCIPLES ON WHICH THERE IS BROAD AGREEMENT AND ONLY AFTER AS MANY SUCH PRINCIPLES AS POSSIBLE ARE WORKED OUT MOVING ON TO DISCUSSION OF THE PRINCIPLES ON WHICH THERE IS SIGNIFICANT CONTENTION. THE PRINCIPLES CONTAINED IN THE U.S. WORKING PAPER SUBMITTED TO THE 5TH SESSION OF THE WORKING GROUP ON DBS GENERALLY APPEAR TO FALL WITHIN THE FORMER CATEGORY. IF POSSIBLE, IT WOULD BE HELPFUL TO USE THE U.S. DRAFT AS THE BASIC TEXT. (INFORMALLY THE SWEDISH DELEGATION HAS ALREADY INDICATED THAT IF THE ABOVE APPROACH WERE ADOPTED THE U.S. DRAFT WOULD BE THE MOST LOGICAL BASIC TEXT.)

(B) ALTHOUGH THE DELEGATION IS AUTHORIZED TO DISCUSS VOLUNTARY PRINCIPLES RELATING TO DIRECT TELEVISION BROADCASTING BY SATELLITES, YOU SHOULD NOT AGREE TO A FORMAT ENTAILING MANDATORY PRINCIPLES. BECAUSE THE U.S.S.R. PROPOSED AT THE WORKING GROUP A SET OF "PRINCIPLES" AS DISTINGUISHED FROM A BINDING TREATY, THIS GOAL SHOULD BE ATTAINABLE WITHOUT CONSIDERABLE DIFFICULTY. HOWEVER, EVEN THE NEW SOVIET TEXT STILL CONTAINS A GOOD DEAL OF MANDATORY LANGUAGE WHICH SHOULD BE AVOIDED REGARDLESS OF THE SUBSTANCE OF THE ARTICLE UNDER DISCUSSION.

(C) WE WOULD MUCH PREFER THAT THE SUBCOMMITTEE NOT COMPLETE THESE NEGOTIATIONS AT THIS SESSION, AND THE DELEGATION SHOULD ENDEAVOR TO ENSURE THAT IT DOES NOT. AT THE SAME TIME, WE HOPE TO AVOID BEING PUT IN AN ISOLATED POSITION AT NEXT FALL'S UNGA, WHERE WE WOULD PROBABLY BE IF ALL ISSUES BUT PRIOR CONSENT, FOR EXAMPLE, WERE RESOLVED.

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(D) THE DELEGATION SHOULD REFER TO THE DEPARTMENT ANY ARTICLES CONTAINING SUBSTANCE MORE RESTRICTIVE TO DBS THAN THAT CONTAINED IN THE U.S. WORKING PAPER. OUR APPROVAL NOW OF ANY DRAFT ARTICLES WOULD OF COURSE BE AD REFERENDUM. THE GENERAL RATIONALE UNDERLYING THE U.S. PROPOSAL IN THE U.S. PAPER IS CONTAINED IN THE STATEMENT OF MARCH 13 OF THE U.S. REPRESENTATIVE TO THE DBS WORKING GROUP AND THE POSITIONS OUTLINED IN THAT PAPER REMAIN VALID.

(E) ALTHOUGH IT WAS GENERALLY ASSUMED BY MANY DELEGATIONS FOLLOWING THE DBS WORKING GROUP SESSION LAST MARCH THAT WIDESPREAD AGREEMENT EXISTED ON A NUMBER OF PRINCIPLES, NO SUCH PRECISE CONCLUSIONS WERE REACHED BY THE WORKING GROUP. THE LEGAL SUBCOMMITTEE SHOULD NOT ASSUME, THERE-

FORE, THAT ANY PARTICULAR PRINCIPLES WERE AGREED. THE
DELEGATION SHOULD IN
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